

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 3075**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

ADOPTED DECEMBER 19, 2013

**Sponsored by:**

**Senator BOB SMITH**

**District 17 (Middlesex and Somerset)**

**Senator CHRISTOPHER "KIP" BATEMAN**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Senator JIM WHELAN**

**District 2 (Atlantic)**

**Senator JENNIFER BECK**

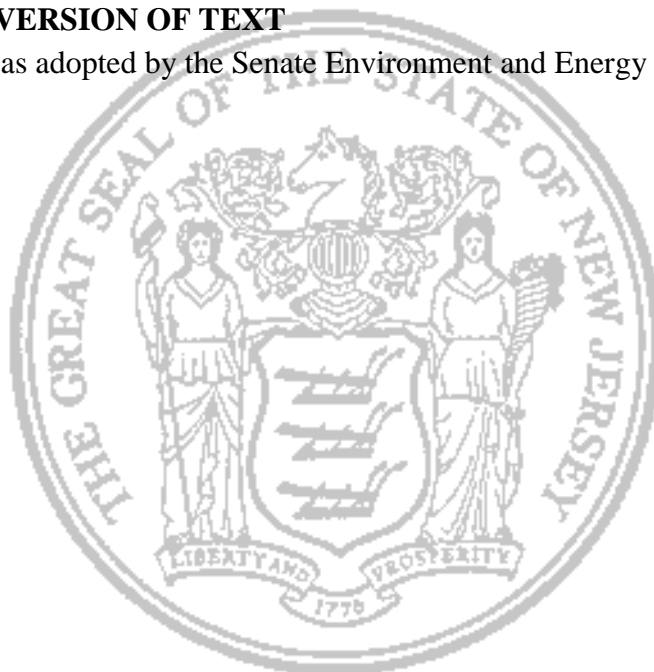
**District 11 (Monmouth)**

**SYNOPSIS**

Authorizes extension of time for completion of remedial investigation of certain contaminated sites prior to DEP undertaking direct oversight.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Environment and Energy Committee.



1 **AN ACT** concerning oversight of contaminated sites, and amending  
2 and supplementing P.L.2009, c.60.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. (New section) a. Except as provided in subsection b. or c. of  
8 this section, for any site subject to the provisions of paragraph (3)  
9 of subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27),  
10 upon application by a person responsible for conducting the  
11 remediation, an extension of time until May 7, 2016 shall be  
12 provided to allow for the completion of the remedial investigation  
13 prior to the department taking direct oversight provided that the  
14 applicant continues to comply with the conditions imposed pursuant  
15 to this subsection. The applicant shall certify, in a document  
16 submitted electronically by the licensed site remediation  
17 professional retained by the applicant, that the following conditions  
18 have been met:

19 (1) a licensed site remediation professional has been retained to  
20 conduct a remediation of the site;

21 (2) any remediation requirements included in mandatory  
22 remediation timeframes adopted pursuant to section 28 of P.L.2009,  
23 c.60 (C.58:10C-28), for the site have been met at the time of the  
24 certification;

25 (3) technically complete submissions have been made in  
26 compliance with all rules and regulations for site remediation, as  
27 applicable, for the (a) initial receptor evaluation, (b) immediate  
28 environmental concern source control report, (c) light non-aqueous  
29 phase liquid interim remedial measure report, (d) preliminary  
30 assessment report, and (e) site investigation report;

31 (4) a remediation funding source has been established, if  
32 required of the applicant by section 25 of P.L.1993, c.139  
33 (C.58:10B-3);

34 (5) if a remediation funding source is not required to be  
35 established by the applicant pursuant to law, then a remediation  
36 trust fund for the estimated cost of the remedial investigation has  
37 been established pursuant to the standards established in section 25  
38 of P.L.1993, c.139 (C.58:10B-3);

39 (6) any oversight costs imposed by the department, known at  
40 the time of the application, and not in dispute on the date of  
41 enactment of P.L. , c. (C. ) (pending before the Legislature as  
42 this bill), have been paid to the department; and

43 (7) the annual fees imposed by the department for the  
44 remediation and remediation funding source surcharges imposed

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 pursuant to section 33 of P.L.1993, c.39 (C.58:10B-11) have been  
2 paid to the department, as applicable.

3 An application pursuant to this subsection shall be submitted to  
4 the department by March 7, 2014 or 30 days after the date of  
5 enactment of P.L. , c. (C. ) (pending before the Legislature as  
6 this bill), whichever is later.

7 b. For any site subject to the provisions of paragraph (3) of  
8 subsection a. of section 27 of P.L.2009, c.60 (C.58:10C-27), if the  
9 failure to complete the remedial investigation of the contaminated  
10 site is due to a delay in the provision of State financial assistance  
11 for the remediation from the Hazardous Discharge Site Remediation  
12 Fund, upon application by a person responsible for conducting the  
13 remediation, an extension of time shall be provided to allow for the  
14 completion of the remedial investigation prior to the department  
15 taking direct oversight, except as provided in subsection c. of this  
16 section. The applicant shall submit to the department a certification  
17 that the person responsible for conducting the remediation filed a  
18 technically and administratively complete application for funding  
19 prior to March 7, 2014 or 30 days after the date of enactment of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill),  
21 whichever is later, qualifies for funding, and remains eligible for  
22 funding. Every six months after the submission of the application  
23 for the extension of time pursuant to this subsection, the applicant  
24 shall submit to the department a certification with an update on the  
25 status of the funding application.

26 The extension of time for the completion of a remedial  
27 investigation of a contaminated site prior to the department taking  
28 direct oversight of the remediation pursuant to this subsection shall  
29 be no more than two years after receipt of funding, or no more than  
30 two years after the applicant is no longer eligible for funding.

31 An application for an extension of time pursuant to this  
32 subsection shall be submitted to the department by March 7, 2014  
33 or 30 days after the date of enactment of P.L. , c. (C. ) (pending  
34 before the Legislature as this bill), whichever is later.

35 c. An application submitted pursuant to subsection a. or b. of  
36 this section shall be deemed approved upon receipt by the  
37 department. The department may undertake direct oversight of a  
38 remediation if, at any time during the extension of time: (1) the  
39 conditions imposed pursuant to subsection a. or b. of this section, as  
40 the case may be, are no longer met; or (2) the person responsible for  
41 conducting the remediation fails to meet a mandatory remediation  
42 timeframe after submission of the certification submitted pursuant  
43 to this section. The department shall so notify the person  
44 responsible for conducting the remediation, in writing, that the  
45 extension of time for completion of the remedial investigation is  
46 revoked because of the applicant's failure to continue to comply  
47 with the conditions required, or the applicant's failure to submit one

1 or more of the certifications required pursuant to subsection a. or b.  
2 of this section, or that the information included in a certification is  
3 incomplete, incorrect, false, or otherwise deficient.

4 d. The department shall provide notice on its internet website of  
5 any extensions provided pursuant to this section. In the notice, the  
6 department shall provide the name and location of the site for which  
7 the extension is provided and the length of the extension of time.

8

9 2. Section 27 of P.L.2009, c.60 (C.58:10C-27) is amended to  
10 read as follows:

11 27. a. **【The】** Except as provided in section 1 of P.L. , c. (C. )  
12 (pending before the Legislature as this bill), the department shall  
13 undertake direct oversight of a remediation of a contaminated site  
14 under the following conditions:

15 (1) the person responsible for conducting the remediation has a  
16 history of noncompliance with the laws concerning remediation, or  
17 any rule or regulation adopted pursuant thereto, that includes the  
18 issuance of at least two enforcement actions after the date of  
19 enactment of P.L.2009, c.60 (C.58:10C-1 et al.) during any five-  
20 year period concerning a remediation;

21 (2) the person responsible for conducting the remediation at a  
22 contaminated site has failed to meet a mandatory remediation  
23 timeframe or an expedited site specific timeframe adopted by the  
24 department pursuant to section 28 of P.L.2009, c.60 (C.58:10C-28),  
25 including any extension thereof granted by the department, or a  
26 schedule established pursuant to an administrative order or court  
27 order; or

28 (3) unless a longer period has been ordered by a court, the  
29 person responsible for conducting the remediation has, prior to the  
30 date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.), failed to  
31 complete the remedial investigation of the entire contaminated site  
32 10 years after the discovery of a discharge at the site and has failed  
33 to complete the remedial investigation of the entire contaminated  
34 site within five years after the date of enactment of P.L.2009, c.60  
35 (C.58:10C-1 et al.).

36 As used in this subsection, "enforcement action" means an  
37 administrative order, a notice of civil administrative penalty, or a  
38 court order.

39 b. The department may undertake direct oversight of a  
40 remediation of a contaminated site under the following conditions:

41 (1) the contamination at the site includes chromate chemical  
42 production waste;

43 (2) the department determines that more than one  
44 environmentally sensitive natural resource has been injured by  
45 contamination from the site;

- 1 (3) the site has contributed to sediments contaminated by  
2 polychlorinated biphenyl, mercury, arsenic, or dioxin in a surface  
3 water body; or
- 4 (4) the site is ranked by the department in the category requiring  
5 the highest priority pursuant to the ranking system developed  
6 pursuant to section 2 of P.L.1982, c.202 (C.58:10-23.16).
- 7 c. For any site subject to direct oversight by the department  
8 pursuant to this section:
- 9 (1) the department shall review each document submitted by a  
10 licensed site remediation professional and shall approve or deny the  
11 submission;
- 12 (2) a feasibility study shall be performed and submitted to the  
13 department for approval;
- 14 (3) the department shall select the remedial action for the site;
- 15 (4) the person responsible for conducting the remediation shall  
16 establish a remediation trust fund pursuant to section 25 of  
17 P.L.1993, c.139 (C.58:10B-3) in the amount of the estimated cost of  
18 the remediation;
- 19 (5) all disbursements of funds from the remediation trust fund  
20 shall require prior approval by the department;
- 21 (6) all submissions prepared by the licensed site remediation  
22 professional concerning the remediation required by the department  
23 shall be provided simultaneously to the department and the person  
24 responsible for conducting the remediation; and
- 25 (7) the person responsible for conducting the remediation shall  
26 implement a public participation plan approved by the department  
27 to solicit public comment from the members of the surrounding  
28 community concerning the remediation of the site.
- 29 d. The department shall issue guidelines establishing specific  
30 criteria for the conditions under which a site may be subject to  
31 direct oversight pursuant to subsection b. of this section.
- 32 e. (1) Any oversight procedure, remedy, or other obligation in  
33 P.L.2009, c.60 (C.58:10C-1 et al.) shall not affect a remediation  
34 conducted pursuant to and in compliance with a settlement of  
35 litigation to which the department is a party if the settlement (a)  
36 occurred prior to the date of enactment of P.L.2009, c.60  
37 (C.58:10C-1 et al.), or (b) is a settlement of litigation pending on  
38 the date of enactment of P.L.2009, c.60 (C.58:10C-1 et al.).
- 39 (2) For any litigation pending or settled on the date of enactment  
40 of P.L.2009, c.60 (C.58:10C-1 et al.), concerning a remediation  
41 performed pursuant to the "Resource Conservation and Recovery  
42 Act," 42 U.S.C. s.6921 et seq., nothing in P.L.2009, c.60  
43 (C.58:10C-1 et al.) shall affect an oversight procedure, remedy, or  
44 other obligation imposed by a federal administrative order or  
45 federal court order.
- 46 (cf: P.L.2009, c.60, s.27)

- 1      3. This act shall take effect immediately.